

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

BPMC No. 19-059

IN THE MATTER
OF
SURENDRA JOHRI, M.D.

COMMISSIONER'S
ORDER AND
NOTICE OF
HEARING

TO: Surendra Johri, M.D.
c/o Daniel R. Ryan, Esq.
Smith, Sovik, Kendrick & Sugnet, P.C.
250 South Clinton St., Suite 600
Syracuse, NY 13202

The undersigned, Sally Dreslin, M.S., R.N., Executive Deputy Commissioner of Health, after an investigation, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, and upon the Statement of Charges attached hereto and made a part hereof, has determined that the continued practice of medicine in the State of New York by Surendra Johri, M.D. (henceforth: "Respondent"), license number 238870, constitutes an imminent danger to the health of the people of this state.

It is therefore:

ORDERED, pursuant to N.Y. Pub. Health Law §230(12), that effective immediately, Respondent shall not practice medicine in the State of New York. This Order shall remain in effect unless modified or vacated by the Commissioner of Health pursuant to N.Y. Pub. Health Law §230(12).

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230, and N.Y. State Admin. Proc. Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional

Medical Conduct on March 26, 2019, at 10:30 a.m., at the Utica State Office Building, 207 Genesee Street, Utica, NY 13501, Hearing Room 103-C – 1st Floor (present photo ID) and at such other adjourned dates, times and places as the committee may direct. The Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. The Respondent shall appear in person at the hearing and may be represented by counsel. The Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on his behalf for the production of witnesses and documents and to cross-examine witnesses and examine evidence produced against him. A summary of the Department of Health Hearing Rules is enclosed. Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person.

The hearing will proceed whether or not the Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and, therefore, adjournment requests are not routinely granted. Requests for adjournments must be made in writing to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Riverview Center 150 Broadway - Suite 510, Albany, NY 12204-2719., ATTENTION: HON. JAMES HORAN, DIRECTOR, BUREAU OF ADJUDICATION, and by telephone (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below. Claims of court

engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty or sanction to be imposed or appropriate action to be taken. Such determination may be reviewed by the administrative review board for professional medical conduct.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York

March 20, 2019


SALLY DRESEIN, M.S., R.N.
Executive Deputy Commissioner of Health
New York State Health Department

Inquiries should be directed to:

Paul Tsui
Associate Counsel
N.Y.S. Department of Health
Division of Legal Affairs
Corning Tower, Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

SURENDRA JOHRI, M.D.

STATEMENT

OF

CHARGES

Surendra Johri, M.D., the Respondent, was authorized to practice medicine in New York State on or about February 6, 2006, by the issuance of license number 238870 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about February 7, 2019, in the Utica City Court, City of Utica, County of Oneida, State of New York, Respondent was found guilty, based upon a verdict of guilt following a bench trial, of Forcible Touching, a Class A misdemeanor in violation of Penal Law § 130.52, and two counts of Sexual Abuse in the Third Degree, a Class B misdemeanor in violation of Penal Law § 130.55. Respondent was convicted in relation to his conduct towards Patients A and B (patients are identified in the attached Appendix).

B. Respondent, a psychiatrist, provided medical care to Patient A, a 43-year old female at the time treatment began, at various times from on or about July 2010 through on or about October 2017, at his office located in Little Falls, New York and then at Upstate Cerebral Palsy/Community Health Behavioral Services ("UCP"/"CHBS"), 1427 Genesee Street, Utica, New York 13501, for anxiety and bipolar disorder, among other conditions. Respondent's conduct towards Patient B deviated from accepted standards of medical care as follows:

1. Respondent, on one or more occasions, asked Patient A questions about her sex life with her husband for no adequate medical reason and/or failed to document any adequate medical reason for asking such questions on one or more occasions.
2. Respondent, during an office visit on or about January 21, 2017, had inappropriate physical contact with Patient A by hugging her and touching her breast with his hand.
3. Respondent, during an office visit on or about April 15, 2017:
 - a. hugged Patient A; and/or
 - b. kissed Patient A on the neck; and/or
 - c. rubbed his erect, clothed penis against her body.

C. Respondent, a psychiatrist, provided medical care to Patient B, a 40-year old female at the time treatment began, at various times from on or about January 2015 through on or about November 2017 at his office located at UCP/CHBS, 1427 Genesee Street, Utica, New York 13501, for bipolar disorder and addiction issues, among other conditions. Respondent's conduct towards Patient B deviated from accepted standards of medical care as follows:

1. Respondent, on one or more occasions, had inappropriate physical contact with Patient B of a sexual nature.
2. Respondent, on one or more occasions, physically and/or verbally harassed, abused or intimidated Patient B.

D. Respondent, a psychiatrist, provided medical care to Patient C, a 32-year old female at the time of treatment, on or about July 13, 2013 through on or about August 13, 2013, at his office located at UCP/CHBS, 1427 Genesee Street, Utica, New York 13501, for Major Depressive Disorder, ADHD, and Panic Disorder, among other conditions. Respondent had treated Patient C prior to treating her at UCP/CHBS on July 13, 2013. Respondent's medical care of Patient C deviated from accepted standards of medical care as follows:

1. Respondent, during an office visit on or about July 13, 2013, conducted a psychiatric evaluation and mental status examination of Patient C noting a regimen of medications prescribed by prior providers over several years but failed to consult any of those providers and/or failed to document any consultation with any such providers.
2. Respondent's note regarding the July 13, 2013 visit made it appear that the visit was his first contact with Patient C, and Respondent failed to document that he had treated Patient C previously.
3. Respondent, on or about August 13, 2013, inappropriately prescribed Wellbutrin XL to be taken twice a day despite the medication being the 24-hour form of the drug to be administered once a day and/or failed to document a medical rationale for prescribing Wellbutrin XL and the frequency of administration of the medication.
4. Respondent inappropriately prescribed Wellbutrin XL to Patient C as Respondent was transferring Patient C's care to another provider.
5. Respondent failed to document an adequate rationale for continuation of Patient C's polypharmacy regimen and failed to enact and/or document an adequate treatment plan to address Patient C's medication regimen.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

CRIMINAL CONVICTION (N.Y.S.)

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(i) by having been convicted of committing an act constituting a crime under New York state law as alleged in the facts of the following:

1. The facts in Paragraph A.

SECOND THROUGH FOURTH SPECIFICATIONS

IN THE PRACTICE OF PSYCHIATRY, ANY PHYSICAL CONTACT OF A SEXUAL NATURE BETWEEN LICENSEE AND PATIENT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(44) by having in the practice of psychiatry, any physical contact of a sexual nature between licensee and patient as alleged in the facts of:

2. The facts as alleged in paragraph A.
3. The facts as alleged in paragraphs B and B2, B and B3a, B3b, and/or B3c, and/or
4. The facts as alleged in paragraphs C and C1.

FIFTH THROUGH SEVENTH SPECIFICATIONS

WILLFUL PHYSICAL AND VERBAL ABUSE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(31) by having willfully harassed, abused or intimidated a patient physically and/or verbally as alleged in the facts of:

5. The facts as alleged in paragraph A, and/or
6. The facts as alleged in paragraphs B and B1, B and B2, B and B3a, B and B3b, B and B3c, and/or
7. The facts as alleged in paragraphs C and C2.

EIGHTH THROUGH ELEVENTH SPECIFICATIONS

MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(20) by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice as alleged in the facts of the following:

8. The facts as alleged in paragraph A, and/or
9. The facts as alleged in paragraphs B and B1, B and B2, B and B3a, B and B3b, B and B3c, and/or
10. The facts as alleged in paragraphs C and C1, C and C2, and/or
11. The facts as alleged in paragraph D and D2.

TWELFTH SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(3) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of two or more of the following:

12. The facts as alleged in paragraphs A, B and B1, B and B2, B and B3a, B and B3b, B and B3c, C and C1, C and C2, D and D1, D and D2, D and D3, D and D4, and/or D and D5.

THIRTEENTH SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(5) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of two or more of the following:

13. The facts as alleged in paragraphs A, B and B1, B and B2, B and B3a, B and B3b, B and B3c, C and C1, C and C2, D and D1, D and D2, D and D3, D and D4, and/or D and D5.

FOURTEENTH THROUGH SEVENTEENTH SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(4) by practicing the profession of medicine with gross negligence on a particular occasion as alleged in the facts of the following:

14. The facts as alleged in paragraph A, and/or
15. The facts as alleged in paragraphs B and B1, B and B2, B and B3a, B and B3b, B and B3c, and/or
16. The facts as alleged in paragraphs C and C1, C and C2, and/or
17. The facts as alleged in paragraphs D and D1, D and D2, D and D3, D and D4, and/or D and D5.

EIGHTEENTH THROUGH TWENTY-FIRST SPECIFICATIONS

GROSS INCOMPETENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(6) by practicing the profession of medicine with gross incompetence as alleged in the facts of the following:

18. The facts as alleged in paragraph A, and/or
19. The facts as alleged in paragraphs B and B1, B and B2, B and B3a, B and B3b, B and B3c, and/or

20. The facts as alleged in paragraphs C and C1, C and C2, and/or
21. The facts as alleged in paragraphs D and D1, D and D2, D and D3, D and D4, and/or D and D5.

TWENTY-SECOND THROUGH TWENTY-THIRD SPECIFICATIONS

FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(32) by failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, as alleged in the facts of:

22. The facts as alleged in paragraphs B and B1, and/or
23. The facts as alleged in paragraphs D and D1, D and D2, D and D3, and/or D and D5.

TWENTY-FOURTH THROUGH TWENTY-SEVENTH SPECIFICATION

FRAUDULENT PRACTICE

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law § 6530(2) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

24. The facts as alleged in paragraph A.
25. The facts as alleged in paragraphs B and B1, B and B2, B and B3a, B and B3b, B and B3c, and/or

26. The facts as alleged in paragraphs C and C1, C and C2, and/or
27. The facts of Paragraphs D and D2.

DATE: March 20, 2019
Albany, New York



TIMOTHY J. MAHAR
Deputy Counsel
Bureau of Professional Medical Conduct